IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

P.I.L. NO.28 OF 2006

M.P.Phodkar & ors. Petitioners

vs.

The State of Maharashtra & ors. Respondents

Mr.S.M.Railkar for the petitioners.

Mr.P.M.Patil, A.G.P. for the respondents 1 and 4.

Mr.G.S./Hegde i/b.M/s.G.S. Hegde & Associates for the respondent no.5.

CORAM : R. M. LODHA &
A.S.BAGGA, JJ.

DATED : 14th June, 2006

P.C.

Heard the counsel for the petitioners and the Assistant Government Pleader for the respondents 1 and 4.

2. In paragraph 3 of the affidavit in reply filed by Sub Divisional Engineer, Kharland Sub Division, Lanja, District Ratnagiri, the following statement has been made:

> "3. I state that the Kondsar (Bk) K.L.Scheme bund was constructed during the year 1991-92 by the Govt. of Maharashtra. For the purpose of protection of lands from village Gaonkhadi (Gaonkond), Kondsar (Bk) and Kasheli, bund was constructed on Tributary of River Muchkundi which is local nalla (Index map and village map attached) The repair work of bund is in progress without disturbing and without destroying the ecology, natural plants, trees and mangroves, by providing gages for stopping

creek water during high tide for protecting agriculture lands.

. River Muchkundi meets the Arabian Sea at village Purngad in Tal. & Dist. Ratnagiri. At village Dorle the two tributaries meet one coming from village Satawli and the other coming from village Kasheli. The Muchkundi river then passes through village Beni, Harche, Kondsar (Bk), Gaonkhadi to Purngad. The high tide water of sea enters this creek from Purngad and goes upto village Kasheli. The Kasheli bund cum road named as "Desayacha Bandh" was constructed previously by the local farmers during the year 1955. The Government of Maharashtra has framed the Kharland Act in the year 1979 and detailed master plan of kharland scheme in Maharashtra was prepared in 1979. The Kondsar (Bk) scheme included in the master plan on page No.39 Sr.No.2 and 4."

3. We have no justifiable reason not to believe the aforesaid statement. In view thereof, the grievance of the petitioner that there is obstruction to the flow of water and that there is likely disturbance to ecology, natural plants, trees and mangroves is misconceived.

4. Public Interest Litigation is disposed of accordingly.

(R.M. LODHA,J.)

(A.S. BAGGA,J.)